

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMGEN INC. and AMGEN
MANUFACTURING, LIMITED,

Petitioners,

v.

CHARLES RIVER LABORATORIES, INC.,

Respondent.

Miscellaneous Case No.

ACTION TO ENFORCE A
SUBPOENA

Underlying Case No.
1:15-cv-839-RGA (D. Del.)

**AMGEN'S MOTION TO COMPEL
DISCOVERY FROM NON-PARTY CHARLES RIVER**

Under Fed. R. Civ. P. 37 and 45, and Local Rule 37.1, Amgen Inc. and Amgen Manufacturing, Ltd. (collectively "Amgen") respectfully request that this Court compel Respondent Charles River Laboratories, Inc. ("Charles River") to search for and produce documents, and present a witness to testify, in response to subpoenas that Amgen served on Charles River seeking information relevant to the parties' claims and defenses in *Amgen Inc. and Amgen Manufacturing, Limited v. Hospira, Inc.*, Case No. 15-cv-839-RGA (D. Del.).

On May 19, 2016, Amgen served two subpoenas on Charles River seeking documents and testimony relevant to Amgen's patent-infringement claims in *Amgen v. Hospira*. Charles River has not served *any* objections to the subpoenas, and has informed Amgen that, although it does not object to the subpoenas, it cannot produce responsive information or designate a witness to testify without its clients' (e.g., Hospira's) permission, or a court order.

Because Charles River apparently has not obtained that permission, Amgen seeks an order compelling Charles River to produce responsive information and designate a witness to testify.

Amgen files this Motion in this District because Charles River's principal place of business is within this District, in Wilmington, Massachusetts.

In further support of this Motion, Amgen is filing a Memorandum in Support and a Declaration of John R. Labbé with exhibits. As of the date of this filing, Amgen is filing redacted versions of those materials because they contain information that Hospira has designated as protected under the Protective Order in *Amgen v. Hospira*. Amgen has sought Hospira's permission to provide those materials to Amgen's Massachusetts counsel and to seek leave to file them under seal with this Court, but at this time, Hospira has refused to give Amgen permission to file those materials with this Court, whether under seal or not, or provide them to Massachusetts counsel. Amgen will continue to seek Hospira's permission to do so.

WHEREFORE, Amgen seeks an order compelling Charles River to comply with the subpoenas it has served on it as more fully set forth in Amgen's Memorandum in Support.

October 14, 2016

Respectfully submitted,

AMGEN INC. and
AMGEN MANUFACTURING, LIMITED,

By their attorneys,

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CERTIFICATION OF COMPLIANCE WITH LOCAL RULES 7.1(2) and 37.1

I, David L. Hansen, hereby certify that counsel for the parties have conferred to attempt to resolve the pending discovery dispute. Amgen, through counsel, has had multiple telephone conferences pursuant to Fed. R. Civ. P. 37 with counsel for Charles River, most recently on September 15, 2016. Charles River has informed Amgen that it cannot produce information in response to Amgen's subpoenas without a court order or Hospira's permission. Counsel for Amgen has also had extensive email correspondence and telephone conferences with counsel for Hospira attempting to resolve the dispute. Despite these efforts, the parties have been unable to resolve their dispute.

/s/ David L. Hansen
David L. Hansen

CERTIFICATE OF SERVICE

I, David L. Hansen, do hereby certify that the foregoing was filed with the Court through the ECF system and served via U.S. mail and electronic mail upon the following counsel for Charles River and Hospira on October 14, 2016:

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/s/ David L. Hansen

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